IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 15TH NOVEMBER 2007 / 24TH KARTHIKA 1929

O.P.No. 31388 of 1999 (J)

PETITIONER:

S.SASIDHARAN
SENIOR INSTRUCTOR
GOVERNMENT INDUSTRIAL TRAINING INSTITUTE
CHACKAI, THIRUVANANTHAPURAM-695 007.

BY ADV. SRI.B.RAGUNATHAN
SRI.V.V.MATHEW
SMT.P.RETNAKUMARI

RESPONDENTS:

---

1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR DEPARTMENT, GOVT. SECRETARIAT THIRUVANANTHAPURAM-695 001

2. DIRECTOR OF TRAINING
DEPARTMENT OF INDUSTRIAL TRAINING
THYCAUD, THIRUVANANTHAPURAM-695 014.

BY GOVERNMENT PLEADER SMT.SUDHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/11/2007, THE COURT ON 15/11/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of order No.A2/8465/93 dated 14.6.1993 of the Joint Director of Training.

Ext.P2: True copy of letter No.A5-13117/87(2) dated 22.7.1987 of the 2nd respondent (relevant portion)

Ext.P3: True copy of order No.A2/8465/93 dated 10.2.1994 of the joint Director of Training.

Ext.P4: True copy of the representation dated 13.12.1996 to the 1st respondent.

Ext.P5: True copy of letter No.37208/C1/96/Lab. dated 21.5.1997 of the 1st respondent.

Ext.P6: True copy of the representation dated 29.5.1997.

Ext.P7: True copy of order No.A6/8439/94 dated 20.4.1999 along with the final gradation list of Senior Instructors as on 30.11.1997 of the 2nd respondent (relevant portion)

Ext.P8: True copy of the full text of Ext.P3 order.

// True copy //

P.A. to Judge

jes

A.K.BASHEER, J.

O.P.No.31388 of 1999 (J)

JUDGMENT

Dated, 15th November, 2007

A.K.BASHEER, J.

- -

O.P.No.31388 OF 1999

- -

Dated this the 15th day of November 2007

JUDGMENT

This original petition was filed in the year 1999 while petitioner was working as Senior Instructor in Government Industrial Training Institute at Thiruvananthapuram with a prayer for issue of writ of mandamus or other appropriate writ, direction or order to the respondents to give him promotion to the cadre of Senior Instructor and Group Instructor with effect from 1992 and 1996 respectively with all attendant benefits. Admittedly, petitioner has since retired from service.

2. Petitioner is a Diploma holder in Electrical Engineering. It is not in dispute that he is governed by Kerala Craftsmen Subordinate Service Rules. He joined the service as Workshop Attender in April 1980. He was promoted to the post of Junior Instructor in 1982. Later, he was promoted as Senior Instructor as could be seen from Ext.P1 proceedings of the Joint Director of Training dated June 14, 1993. Of course in Ext.P1 there was a rider that promotees like the petitioner who had not yet

undergone the training at the Central Training Institute would become eligible for promotion only on successful completion of their training in the Institute at the next opportunity. It was also made clear that in the event of their failure to complete the training successfully, they would be reverted.

3. It is not in dispute that petitioner was sent for training in August 1992 even before issuance of Ext.P1 order. Unfortunately, he failed in one of the papers. In other words, petitioner did not successfully complete the training in the first opportunity given to him as contemplated under the Special Rules, which meant that he was liable to be reverted. It is also beyond controversy that petitioner was reverted as Junior Instructor as revealed from Ext.P3 proceedings dated February 10, 1994. Though the petitioner took up the matter with the higher authorities contending inter alia that it was not his fault that he could not go for training earlier than many of his juniors, the department did not accede to his request to give him promotion as Senior Instructor.

4. It is on record that petitioner passed the other paper in which he had failed earlier. Therefore, he was treated to have

completed his training successfully in July 1993. But it appears that he was promoted as Senior Instructor only with effect from December 1997. The said mistake was later rectified by the Department and he was given seniority with effect from August 1994 as revealed from Ext.P7.

5. But still, the petitioner has got a grievance that he would have got promotion as Senior Instructor in 1992 itself, if only he had been sent for training between 1987-1991 as in the case of some of his juniors. The contention of the petitioner is that if only he had been sent for training earlier, he might have got more than one chance to complete the training successfully and thereby he would have become eligible for promotion by the time his turn came for promotion in the year 1992.

6. I am afraid the above contention raised by the petitioner cannot be contenanced. Not only that there are many “if's” and “but's” in all walks of life, the fact is that petitioner had not raised his little finger during 1987-1991, when allegedly some of his juniors were sent for training. There is no material to show that he was intentionally sidelined and while his juniors were sent for training between 1987 and 1991. As noticed already, petitioner

went for training in August 1992. But unfortunately, he could not pass all the papers in the examination held in July 1993. Even at that stage, he did not raise any objection. Such a contention was taken up for the first time only in the year 1994 when he was reverted, which was a natural consequence since he had not completed the training successfully.

7. It is also pertinent to note that petitioner has preferred this original petition in the year 1999 and that too after his seniority as Senior Instructor with effect from 31-8-1994 was recognised and Ext.P7 proceedings were issued. Petitioner has not been able to give any reason or explanation for the delay and laches on his part in approaching this court.

For the reasons stated above, I do not find any reason to exercise the discretion vested in this court under Article 226 of the Constitution at this stage. The writ petition fails and it is accordingly dismissed.

(A.K.BASHEER, JUDGE)

jes